



Brussels, 1 March 2019
(OR. en)

7012/19

INF 36
API 18

NOTE

From: General Secretariat of the Council
To: Working Party on Information
Subject: Public access to documents
- Confirmatory application No 06/c/01/19

Delegations will find attached the:

- request for access to documents sent to the General Secretariat of the Council on 19 February 2019 and registered on the same day (Annex 1);
- reply from the General Secretariat of the Council dated 28 February 2019 (Annex 2);
- confirmatory application dated 28 February 2019 and registered on the same day (Annex 3).

[E-mail message sent to access@consilium.europa.eu on 19 February 2019 - 11:56 using the electronic form available in the Register application]

Title/Gender:

Family Name: **DELETED**

First Name: **DELETED**

E-Mail: **DELETED**

Occupation:

On behalf of:

Address:

Telephone:

Mobile:

Fax:

Requested document(s): ST 6346 2019 INIT

1st preferred linguistic version: EN - English

2nd preferred linguistic version: FR - French



Council of the European Union
General Secretariat
Directorate-General Communication and Information - COMM
Directorate Information and Outreach
Information Services Unit / Transparency
Head of Unit

Brussels, 28 February 2018

DELETED

Email: **DELETED**

Ref. 19/0525-mj/jg

Request made on: 19.02.2019

Dear **DELETED**,

Thank you for your request for access to documents of the Council of the European Union.¹

Please find attached a partially accessible version of document 6346/19.² However, I regret to inform you that full access cannot be given for the reasons set out below.

Document 6346/19 is a Working Document of 13 February 2019 from the General Secretariat to the Delegations concerning the 6th session of the International Maritime Organisation (IMO) Sub-Committee on Pollution Prevention and Response which took place in London from 18 till 22 February 2019. It contains a non-paper from the Commission drafted to facilitate EU co-ordination.

This document contains information about the proposed line of conduct to be followed by the Member States and the Commission for the abovementioned meeting.

¹ The General Secretariat of the Council has examined your request on the basis of the applicable rules: Regulation (EC) No 1049/2001 of the European Parliament and of the Council regarding public access to European Parliament, Council and Commission documents (OJ L 145, 31.5.2001, p. 43) and the specific provisions concerning public access to Council documents set out in Annex II to the Council's Rules of Procedure (Council Decision No 2009/937/EU, OJ L 325, 11.12.2009, p. 35).

² Article 4(6) of Regulation (EC) No 1049/2001.

Disclosure of this information would have a negative impact on the relations of the European Union with the IMO. Should its internal views and negotiation strategy be made public, the position of the European Union in such multilateral negotiations would be seriously weakened.

Disclosure of the whole document would therefore undermine the protection of the public interest as regards international relations. It would also weaken the position of the European Union in the framework of similar future negotiations.

However, as abovementioned, pursuant to Article 4(6) of the Regulation, you may have access to those parts of the document which are not covered by this exception.

You can ask the Council to review this decision within 15 working days of receiving this reply (confirmatory application).³

Yours sincerely,

Paulo VIDAL

Enclosure

³ Article 7(2) of Regulation (EC) No 1049/2001.
Council documents on confirmatory applications are made available to the public. Pursuant to data protection rules at EU level (Regulation (EU) No 2018/1725, if you make a confirmatory application your name will only appear in related documents if you have given your explicit consent.

From: **DELETED**

Sent: Thursday, February 28, 2019 12:02

To: SECRETARIAT DGF Access <Access@consilium.europa.eu>

Subject: Confirmatory application Re: Ref. 19/0525-mj/jg

Sir, Madam,

Further to your decision to refuse full access to the document mentioned in your letter to me, referenced above, please consider this confirmatory application.

The justification, often repeated, that giving the public and/ or press full access would "seriously weaken" the EU's negotiating position in IMO is without merit.

The meeting referred to has already taken place and is therefore of historic interest only.

Revealing the positions of individual EU Member States in the run up to a joint IMO submission would not change the outcome of the EU's coordinated position, especially after the fact. Neither, given the freedom Member States have to lobby within IMO, would it affect in any way future negotiations in IMO. The positions of nations on specific IMO policies are well known within the IMO community.

The decision to refuse disclosure is in this context simply an attempt to keep government positions out of the public domain, possibly, I suspect, out of fear of negative publicity.

Such decisions are a therefore disservice to the purported democratic, transparent decision-making processes of your institution.

I urge you therefore to reverse the decision in question and to embrace greater transparency when similar requests are made in the future.

Awaiting your reply,

DELETED